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10/626,810	07/24/2003	Larkin Hill Lowrey	0308816.0155	2542

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/626,810	LOWREY ET AL.
	Examiner	Art Unit	
	Ronnie Mancho	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 May 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>37-40,43-46,51,52 and 54-72</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>37-40,43-46,51,52 and 54-72</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date. <u>7/10/07</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1.   Applicant's election without traverse of group (III) drawn to claims 37-40, 43-46, 51, 52, 54-72 in the reply filed on 5/11/07 is acknowledged.

2.   Claims 1-4, 7-10, 15, 17-36, 73-77, 79-90 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/11/07.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claims 37-40, 43-46, 51, 52, 54-72 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In independent claims 37, 38, 51, 52, and 69 recite, "a first field"; "a second filed"; "..........user specified first schedule......."; "........user specified second schedule..........."; "automatically, repeatedly, and wirelessly transmit". These are new matter because the original disclosure does not possess the limitations.

Applicant is required to show where the limitations are shown particularly in the

drawings and or specification.

In claims 51, 54, etc, the applicant recites, "selectors corresponding to each of said set of

operational characteristics". This is new matter because the original disclosure does not possess

the limitations.

Applicant is required to show where the limitations are shown particularly in the

drawings and or specification.

The rest of the claims are rejected for depending on a rejected base claim.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102

that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or
a foreign country or in public use or on sale in this country, more than one
year prior to the date of application for patent in the United States.

6.   Claims 37-40, 43-46, 51, 52, 54-72 are rejected under 35 U.S.C. 102(b) as being

anticipated by Spaur et al (5732074).

Regarding claim 37 Spaur disclose a method of monitoring a set of

operational characteristics of a vehicle, comprising:

(a) wirelessly receiving, by a wireless appliance (30, 80, 82, 84, fig. 2) in a vehicle, a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) configured to identify a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer (122, 124, col. 10, lines 37+) of the vehicle, a user specified first schedule, and a user specified second schedule (updated data, col. 9, lines 31-36);

(b) processing the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67);

(c) collecting (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) from the vehicle's on-board diagnostic computer data (122, 124, col. 10) for the subset of operational characteristics identified in the received software component according to said user specified first schedule;

(d) automatically, repeatedly, and wirelessly transmitting the collected data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) according to said user specified second schedule; and

(e) wirelessly transmitting data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) to a base station data indicative of the vehicle's location (col. 3, lines 48; col. 9, lines 5),

wherein the software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) comprises an address that describes a location of a diagnostic datum in a computer memory in the vehicle,

wherein the software component comprises a first field configured to describe a user specified first schedule (updated data, col. 9, lines 31-36) for automatically, repeatedly collecting the data (updated data, col. 9, lines 31-36) and a second field configured to describe a user specifies second schedule (updated data, col. 9, lines 31-36) configured to automatically, repeatedly, and wirelessly transmit said data to a base station 72 (fig. 2), and

wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake- manifold pressure, engine-performance tuning parameters, alarm status, accelerometer status, cruise-control status, fuel-injector performance, spark-plug timing, or a status of an anti-lock braking system (col. 3, lines 46-67; col. 9).

Regarding claim 38 Spaur disclose a method of monitoring a set of operational characteristics of a vehicle, comprising:

(a) wirelessly receiving, by a wireless appliance in a vehicle, a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifying a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer (122, 124, col. 10) of the vehicle, a user specified first schedule , and a user specified second schedule;

(b) processing the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67);

(c) automatically, repeatedly collecting from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) according to said user specified first schedule; and

(d) automatically, repeatedly, and wirelessly transmitting to a base station the collected data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) according to said user specified second schedule,

wherein the software component comprises a field configured to describe said user specified first schedule (updated data, col. 9, lines 31-36) for automatically, repeatedly collecting the data and a second field configured to describe said user specified second schedule (updated data, col. 9, lines 31-36)

configured to automatically, repeatedly, and wirelessly transmit said data to a base station 72 (fig. 2).

Regarding claim 40 Spaur disclose method of claim 38, wherein the software component comprises an address that describes a location of a diagnostic datum in a computer memory in the vehicle.

Regarding claim 43 Spaur disclose method of claim 38, wherein the software component is an ASCII or binary data file (see TCP/IP, abstract; col. 3).

Regarding claim 44 Spaur disclose method of claim 38, wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake-manifold pressure, engine-performance tuning parameters, alarm status, accelerometer status, cruise-control status, fuel-injector performance, spark-plug timing, or a status of an anti-lock braking system (col. 9).

Regarding claim 45 Spaur disclose method of claim 38, further comprising wirelessly transmitting to a base station data indicative of the vehicle's location.

Regarding claim 46 Spaur disclose method of claim 38, wherein the vehicle is selected from a group comprising an automobile, truck, wheeled commercial

equipment, heavy truck, power sport vehicle, collision repair vehicle, marine

vehicle, and recreational vehicle.

Regarding claim 51 Spaur disclose a method of monitoring a set of vehicles,

comprising:

(a) wirelessly receiving (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-

39, lines 58-67), by a host computer (60, 68, 76, fig. 2), operational characteristics

of a set of vehicles (col. 12, lines 2-18);

(b) displaying, on a first web interface of a web site, operational

characteristics of a single vehicle selected from among said set of vehicles;

(c) displaying, on a second web interface of the web site, operational

characteristics of multiple vehicles among said set of vehicles; and

(d) wirelessly transmitting to each of the set of vehicles a software

component identifying a subset of a set of operational characteristics to be

monitored by an on-board diagnostic computer of a target vehicle,

wherein the software component comprises a first field configured to

describe a user specified first schedule for automatically repeatedly querying the

vehicle's on-board diagnostic computer for the subset of operational characteristics

identified in the software component and a second filed configured to describe a

user specified second schedule for automatically, repeatedly, and wirelessly

transmitting said data to the host computer 72 (fig. 2),

wherein said multiple vehicles are associated with a single entity,

wherein said web site includes selectors (i.e. a software component selector;

col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) corresponding

to each of said set of operational characteristics, wherein said software component

to be transmitted is configured to identify the selected operational characteristics,

herein the first web interface comprises a first web page that displays a

vehicle diagnostic datum,

wherein the first web page comprises data fields describing: (i) a name of a

diagnostic datum, (ii) units corresponding to the diagnostic datum, and (iii) a

numerical value corresponding to the diagnostic datum,

wherein the first web page further comprises multiple sets of diagnostic data

associated with the single vehicle, wherein the web site further comprises a login

web page programmed to accept user name and password inputs of a user, and

wherein the web site is configured to determine whether the user is

associated with the first or second web interface.

Regarding claim 52 Spaur (col. 1-12) disclose a method of monitoring a set

of vehicles, comprising:

(a) wirelessly transmitting to each of the set of vehicles, a software component identifying a subset of a set of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) to be monitored by an on-board diagnostic computer (122, 124, fig. 2) located in each of the set of vehicles,

wherein the software component comprises a first field configured to describe a user specified first schedule for automatically, repeatedly querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component and a second field configured to describe a user specified second schedule for automatically, repeatedly, and wirelessly transmitting said data to a host computer 72 (fig. 2);

(b) wirelessly receiving, by the host computer, operational characteristics of a set of vehicles,

(c) displaying, on a first web interface of a web site, operational characteristics of a single vehicle selected from among said set of vehicles; and

(d) displaying, on a second web interface of the web site, operational characteristics of multiple vehicles among said set of vehicles,

wherein said multiple vehicles are associated with a single entity; and

Regarding claim 54 Spaur disclose the method of claim 52, wherein said web site includes selectors corresponding to each of said set of operational characteristics, wherein said software component to be transmitted is configured to identify the selected operational characteristics.

Regarding claim 55 Spaur disclose the method of claim 52, wherein the first web interface comprises a first web page that displays a vehicle diagnostic datum.

Regarding claim 56 Spaur disclose the method of claim 55, wherein the first web page comprises data fields describing: (i) a name of a diagnostic datum; (ii) units corresponding to the diagnostic datum, and (iii) a numerical value corresponding to the diagnostic datum.

Regarding claim 57 Spaur disclose the method of claim 56, wherein the first web page further comprises multiple sets of diagnostic data associated with the single vehicle.

Regarding claim 58 Spaur disclose the method of claim 55, wherein the first web page includes a graphical representation of a set of diagnostic data.

Regarding claim 59 Spaur disclose the method of claim 52, wherein the web site further comprises a database component.

Regarding claim 60 Spaur disclose the method of claim 52, wherein the web site further comprises a login web page programmed to accept user name and password inputs of a user.

Regarding claim 61 Spaur disclose the method of claim 60, wherein the web site is configured to determine whether the user is associated with the first or second web interface.

Regarding claim 62 Spaur disclose the method of claim 52, wherein the multiple vehicles are each associated with a single user.

Regarding claim 63 Spaur disclose the method of claim 52, wherein the web site is configured to be displayed on a hand-held device.

Regarding claim 64 Spaur disclose the method of claim 63, wherein the hand-held device comprises a cellular telephone, computer, or personal digital assistant (PDA).

Regarding claim 65 Spaur disclose the method of claim 52, further comprising sending an electronic communication including at least a portion of the operational characteristics of the single vehicle or multiple vehicles.

Regarding claim 66 Spaur disclose the method of claim 52, further comprising analyzing a location of the single vehicle and displaying the location on at least one map.

Regarding claim 67 Spaur disclose the method of claim 52, wherein the set

of vehicles includes at least one vehicle selected from a group comprising an

automobile, truck, wheeled commercial equipment, heavy truck, power sport

vehicle, vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 68 Spaur disclose the method of claim 52, wherein the set

of vehicles includes a fleet of vehicles.

Regarding claim 69 Spaur disclose the method of monitoring a set of

vehicles, comprising:

(a) wirelessly transmitting, by a host computer 72, a software component,

wherein the software component identities a subset of a set of operational

characteristics that are monitorable by an on-board diagnostic computer of a target

vehicle among a set of vehicles,

wherein the software component comprises a first field configured to

describe a user specified first schedule for automatically, repeatedly querying the

vehicle's on-board diagnostic computer for the subset of operational characteristics

(col. 2, lines 53+; col. 3, lines 49+) identified in the software component and a

second filed configured to describe a user specified second schedule for

automatically, repeatedly, and wirelessly transmitting said data to the host

computer 72, and

(b) wirelessly receiving by the host computer 72, collected vehicle data of the target vehicle, the collected data including the subset of monitorable operational characteristics identified in the transmitted software component

Regarding claim 70 Spaur disclose the method of claim 69, wherein the software component is associated with a predetermined group of vehicles.

Regarding claim 71 Spaur disclose the method of claim 70, wherein the predetermined group of vehicles having at least one attribute in common.

Regarding claim 72 Spaur disclose the method of claim 69, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Response to Arguments

7.   Applicant's arguments filed 1/23/07; 4/20/07 have been fully considered but they are all not persuasive.

Applicant's arguments drawn to MPEP 2114 are convincing in view of the amendments. The MPEP rejections are therefore withdrawn.

Applicant's arguments drawn to non-elected or cancelled claims are moot in view of cancellation of the claims.

Applicant's argument with regard to "schema" is moot since the limitation

no longer exists in the claims.

The applicant argues that the prior art does not anticipate the claims.

Particularly, the applicant argues that the prior art does not teach a wireless

component configured to receive a software component. The examiner disagrees.

The examiner does not understand the basis of the argument since the applicant

admits that the prior art disclose a wireless communication network and the

internet (IP). The internet disclosed by the prior art is wireless and also transfers

and receives data or software. Although the prior art disclose collected and

transferring or transmitting data using PCMCIA it additionally disclose a controller

network for downloading diagnostic data from a vehicle and wirelessly

transmitting the data to a host computer or base station. Applicant cannot rely only

on the PCMCIA and ignore the other components in the prior art.

It is further noted the amended limitations such as "a first field"; "a second

filed"; "..........user specified first schedule.......": "........user specified second

schedule..........."; "automatically, repeatedly, and wirelessly transmit". These are

new matter because the original disclosure does not possess the limitations.

In claims 51, 54, etc, the applicant recites, "selectors corresponding to each

of said set of operational characteristics". This is new matter because the original

disclosure does not possess the limitations.   Applicant is required to show where the limitations are shown particularly in the drawings and or specification. Applicant cannot be arguing on limitations not disclosed in the original specification.

As noted, the prior art (col. 9, lines 31-67) disclose a schedule at which data should be collected. The data is collected at different times as required. The different times at which data is collected is interpreted as first, second, third, etc schedules. The data collected and transmitted wirelessly by computers, hence the prior art automatically, wirelessly, repeatedly, transmits data over the net.

It is believed that the rejections are proper and thus stand.

Communication

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie   Mancho
Examiner
Art Unit 3663

8/19/2007

JACK KEITH
SUPERVISORY PATENT EXAMINER